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Assistant Deputy Director/Administration
(General)

16 November 1951

General Counsel

Use of Appropriated Funds for Recreational Facilities

OGC Has Reviewed

1. In response to your oral request regarding the propriety of using appropriated funds of this Agency for recreational facilities, extensive research on the problem has revealed the following:

2. The Comptroller General has interpreted the provisions of 31 U.S.C. 628 as denying the expenditure of funds for the purchase or rental of recreational property or the payment for services relating to recreational supervision. The use of funds for this purpose has been denied in spite of the dearth of such facilities at the base, distance from the base to the closest public facilities, or the effect on the morale of employees in the absence of such facilities.

3. In view of this restrictive interpretation, justification for this Agency to expend funds for this purpose must be based upon unique operations, which could take us out of the purview of the decisions.

4. Security considerations are the most likely justification. Another factor supporting such an expenditure would be the need for physical fitness in the particular duties for which the personnel were slated. Fundamentally, the justification for such expenditures is a factual determination for your consideration.

5. We are submitting herewith an intra-office memorandum summarizing the present applicable law on this problem.

LAWRENCE R. HOUSTON

GC/LRH:imm

Distribution:

Orig & 1 - Add
1 - Chrono
1 - Subj

Enclosure:

Memo for Record, dtd
1 Nov 51, above subj.

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MEMORANDUM FOR THE RECORD

1 November 1951

SUBJECT: Use of Appropriated Funds for Recreational Facilities

1. The use of appropriated funds for recreational facilities, unless expressly authorized in the Appropriation Act, is restricted by 31 U.S.C. 628 which provides: "Except as otherwise provided by law, sums appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they were respectively made, and for no others."

2. The leading Comptroller decision on the subject is found in 18 Comp. Gen. 147. Comptroller General's opinion was requested on the suitability of providing recreational facilities for civilian employees engaged in a river and harbor project at Midway Island. There were no civilian recreational facilities available on the island. Nevertheless, the Comptroller General held: "The use of appropriated funds for the furnishing of recreational and entertainment facilities for Government personnel is unauthorized in the absence of specific statutory authority or authority by necessary implication, notwithstanding it may be highly desirable to furnish such facilities because of the absence thereof otherwise and the location of the work -- in this case, a river and harbor appropriation project at Midway Island."

...while it appears that the proposed expenditures would provide recreational and entertainment facilities for the employees, there has been no showing made or even any allegations that such expenditures are reasonably within the purview of the appropriation for rivers and harbors improvements proposed to be used for the prosecution of the project in question, or that such expenditures are essential in, or even reasonably incident to, prosecuting the project.

3. This decision was verified in 27 Comp. Gen. 679 where the Navy Department, seeking to provide a recreational supervisor for its civilian employees, relied for authority to expense such sums upon an Executive Order which stated, "The head of each agency in accordance with applicable statutes, Executive Orders, and rules, shall be responsible for personnel management in his agency."

The Comptroller General held: "While recreational and entertainment programs for civilian employees at field activities of the Navy Department may be administratively desirable, they have at most only an indirect bearing upon the purposes for which the Department's appropriations were made, and, in the absence of a clear legislature expression that appropriated funds be used in connection with such programs, the use thereof for the payment of salaries of civilian personnel--either on a full time or part time basis--to develop, organize, and supervise employee recreational activities is not authorized."

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4. Two unpublished decisions verify the holdings of the above cases, but give a wider latitude of facts to which we may match applicable situations. In a decision of 14 October 1943 (B-37344) the Comptroller General disapproved a voucher in the sum of \$34.50 for the purchase of basketballs, baseballs, and other inexpensive recreational facilities to be used in civilian employee camps located in a national forest under the U. S. Forest Service. The camp in question was located more than a one hour drive from any community and it was contended that boredom from the lack of recreational facilities was causing a large and expensive labor turnover in a tight labor market.

The Service relied for authority upon this language in their appropriation act: "Sums may be expended for expenses necessary to enable the Secretary to carry out the purposes of the Act entitled 'an Act for forest protection against the white pine blister rust'."

The Comptroller General held: "While the furnishing of such equipment may be highly desirable, particularly under the conditions set forth in the statement of the Acting Regional Forester, they constitute expenses which are personal to the employees rather than chargeable to appropriated funds."

5. In B-49169, May 5, 1945, the Comptroller General disallowed a voucher in the sum of \$15.30 submitted by a certifying officer of the Bonneville Power Administration for the rental of a movie film. This film was to be used for entertaining employees at a camp where there was no permanent population, no stores, no post office, and no facilities for recreation and entertainment. The closest town was 35 miles distant.

The disbursing officer stated familiarity with 18 C.G. 147 but felt that since the Bonneville Act granted the Administrator authority to make "such expenditures for offices, vehicles, furnishings, equipment, supplies and books, for attendance at meetings, and such other facilities and services as he may find necessary for the proper administration of the Act", such an expenditure was legitimate.

Notwithstanding the broad terms of this authority, the Comptroller, again referred to 31 U.S.C. 28, stated, "Since there is nothing in the appropriation...which reasonably may be construed as making the appropriation available for the furnishing of entertainment facilities to its employees, there would appear to be no sound basis for departing from the rule of 18 C.G. 147 and such being the case, it must be held that an expenditure of the nature here involved is not authorized."

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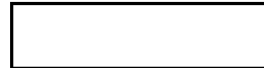
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Concerning the terms of the broad authority, he rejoined that, "There is believed to be no room for doubt that such authority is not sufficient to render appropriate funds available for any items of expenditure the Administrator may approve, regardless of its nature, but that it is to be limited to expenditures the purposes of which bear a direct relationship to the purposes to be accomplished by said Act, namely, the production, transmission and marketing of electrical energy."

6. It will be seen from the tenor of these decisions that expenditures for recreational facilities, whether in the form of providing properties or supervision, is extremely limited without express authority in an appropriation act.

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